

# **EXHIBIT “A”**

# **EXHIBIT “A”**

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1/7/2022 11:48 AM  
Steven D. Grierson  
CLERK OF THE COURT



1 G. DALLAS HORTON & ASSOCIATES  
2 G. DALLAS HORTON, ESQ.  
3 Nevada Bar No. 5996  
4 DAVID L. THOMAS, ESQ.  
5 Nevada Bar No. 3172  
6 Las Vegas, Nevada 89101  
7 702-380-3100  
8 *Attorneys for Plaintiff*

CASE NO: A-22-846388-C  
Department 27

DISTRICT COURT

CLARK COUNTY, NEVADA

9 NICOLE DI IORIO, an individual,  
10 Plaintiff,

11 vs.

12 SMITH'S FOOD & DRUG CENTERS, INC.,  
13 a Foreign Corporation, dba SMITH'S FOOD  
14 & DRUG CENTER #372;  
15 M706 KROGER WEST, an unknown entity;  
16 DOE INDIVIDUAL GROCERY STORE  
17 OWNER, I through X, inclusive; ROE  
18 ENTITY GROCERY STORE OWNER, I  
19 through X, inclusive; DOE INDIVIDUAL  
20 GROCERY STORE LANDOWNERS, I  
21 through X, inclusive; ROE ENTITY  
22 GROCERY STORE LANDOWNERS, I  
23 through X, inclusive; DOE INDIVIDUAL  
24 MAINTENANCE CONTRACTORS, I  
25 through X; inclusive; ROE ENTITY  
26 MAINTENANCE CONTRACTORS, I  
27 through X, inclusive; DOES INDIVIDUALS I  
28 through X, inclusive; and ROE ENTITIES I  
through X, inclusive  
Defendants.

) CASE NO.  
) DEPT. NO.

) **PLAINTIFF'S COMPLAINT AND**  
) **DEMAND FOR JURY TRIAL**

COMES NOW, Plaintiff, NICOLE DI IORIO, an individual and by and through her  
attorneys, G. DALLAS HORTON & ASSOCIATES, and for Plaintiff's causes of action against  
Defendant, SMITH'S FOOD & DRUG CENTERS, INC., a Foreign Corporation, dba SMITH'S

1 FOOD & DRUG CENTER #372, and M706 KROGER WEST, and each of them, alleges as  
2 follows:

3 1. That at all times relevant herein, Plaintiff, NICOLE DI IORIO, was and is a resident  
4 of Clark County, Nevada.

5 2. Upon information and belief at all times alleged herein, Defendant SMITH'S  
6 FOOD & DRUG CENTERS, INC., a Foreign Corporation, dba SMITH'S FOOD & DRU  
7 CENTER #372 registered with the Nevada Secretary of State and doing business in Nevada.

8 3. Upon information and belief at all times relevant herein, Defendant, SMITH'S  
9 FOOD & DRUG CENTERS, INC. #372 was the owner of the real property located at 1421 North  
10 Jones Boulevard, Las Vegas, Clark County, Nevada 89108 and commonly known as Clark County  
Assessor's Parcel 138-26-515-008, hereinafter Defendant's premises.

11 4. Upon information and belief at all times alleged herein, Defendant M706  
12 KROGER WEST, is an unknown entity doing business at Defendants' premises.

13 5. Pursuant to NRCP 10(a) and Nurenberger Hercules-Werke GMBH v. Virotek, 107  
14 Nev. 873, 822 P.2d 1100 (1991), the identity of resident and non-resident defendants designated  
15 herein as DOE INDIVIDUAL GROCERY STORE OWNER, I through X, inclusive; ROE  
16 ENTITY GROCERY STORE OWNER, I through X, inclusive; DOE INDIVIDUAL GROCERY  
17 STORE LANDOWNERS, I through X, inclusive; ROE ENTITY GROCERY STORE  
18 LANDOWNERS, I through X, inclusive; DOE INDIVIDUAL MAINTENANCE  
19 CONTRACTORS, I through X; inclusive; ROE ENTITY MAINTENANCE CONTRACTORS, I  
20 through X, inclusive; DOES INDIVIDUALS I through X, inclusive; and ROE ENTITIES I  
21 through X, inclusive. Upon information and belief these DOE and ROE defendants, and each of  
22 them, were involved in the initiation, approval, support, or execution of one or more of the  
23 wrongful acts or omissions upon which this action is premised, or of similar actions directed  
24 against Plaintiff about which Plaintiff is presently unaware, and which directly and proximately  
25 caused injury and damages to Plaintiff, including but not limited to unreasonably owning, leasing,  
26 renting, building, complying with building and safety codes, rules or ordinances, maintaining,  
27 cleaning, operating, entrusting, or repairing the premises, so as to proximately cause injury to  
28 Plaintiff. ROE and DOE defendants also include but are not limited to: a) presently unknown  
employers of defendant(s) who are responsible for the acts of their employees under NRS 41.745,  
or under the doctrine of *respondeat superior*; b) persons involved in the design, manufacturer

1 distribution and placement into the stream of commerce of an unreasonably dangerous and unfit  
2 product that caused damages to Plaintiff, including shopping carts and shopping cart accessories,  
3 and which persons are strictly liable under products liability law; and, c) known witnesses whose  
4 particular culpability is not known at this time but may be made known once true facts are learned.  
5 As the specific identities of these parties are revealed through discovery, the DOE or ROE  
6 appellation will be replaced to identify these parties by their true names and capacities.  
7 Hereinafter reference to Defendant or Defendants includes DOES and ROES and each of them.

8         6. That upon information and belief, Defendants, inclusive of DOES and ROES, and  
9 each of them, at all relevant times, were the owner, partner, servant, officer, agent, employer  
10 and/or employee of the other, and each of them, and were at all relevant times acting within the  
11 scope and performance of said partnership, agency, master/servant, and employment relationship.

12         7. On or about January 8, 2020, Plaintiff was shopping at Defendant's store. As she  
13 was exiting the store to leave, she slipped on an unreasonably dangerous foreign substance located  
14 on the floor that the Defendants knew about or should have known about; and that Defendants  
15 should have taken precautions to correct and/or prevent.

16         8. At that date, time and place, Defendants, and each of them, unreasonably owned,  
17 entrusted, rented, maintained, operated and controlled the Defendants' store so as to proximately  
18 cause Plaintiff to fall and receive personal injuries and damages.

19         9. That Defendants and each of them were **negligent** and are liable for Plaintiff's  
20 damages.

21         10. At that date, time and place, Defendants and each of them, violated one or more  
22 statutes, codes, ordinances or rules which governed the Defendants' premises and which were  
23 enacted to protect persons such as Plaintiff and prevent the types of injuries and damages Plaintiff  
24 sustained, and Defendants, and each of them, were **negligent per se**, and are liable for Plaintiff's  
25 damages.

26         11. That as a direct and proximate result of the acts and omissions of Defendants, and  
27 each of them, Plaintiff has sustained great pain of body and mind, including serious and painful  
28 physical injuries to Plaintiff, as well as shock and injury to Plaintiff's nervous system entailing  
29 mental stress, anxiety, and anguish, all or some of which conditions may be permanent and  
30 disabling in nature, all to Plaintiff's **general damages** in an amount in excess of \$15,000.00.

...

13. That as a direct and proximate result of the acts and omissions of Defendants, and each of them, Plaintiff has **lost income and earning capacity**, and upon information and belief such damages will continue in the future, all to Plaintiff's damage in a presently unascertainable amount.

14. That Plaintiff had to retain the services of an attorney to prosecute this action and is entitled to **prejudgment interest, reasonable attorney's fees and costs of suit** incurred herein.

0 15. Plaintiff demands a trial by jury.

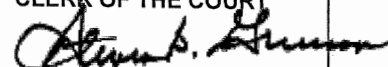
1           WHEREFORE, Plaintiff, expressly reserving the right to amend this Complaint at the time  
2 of trial to include all items of damages not yet ascertained, demands judgment against Defendants,  
3 and each of them, as follows:

1. General damages in an amount excess of \$15,000.00;
2. Damages for costs of medical care and treatment, past and future;
3. Damages for loss of income and earning capacity, past and future;
4. Prejudgment interest, attorney's fees, and costs of suit incurred herein;
5. For trial by a jury; and
6. For such other and further relief as the Court may deem just and proper.

9 DATED this 7th day of January, 2022.

G. DALLAS HORTON & ASSOCIATES

Page 4 of 4

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3/22/2022 3:25 PMElectronically Filed  
4/13/2022 9:38 AM  
Steven D. Grierson  
CLERK OF THE COURT

1 G. DALLAS HORTON & ASSOCIATES  
 2 G. DALLAS HORTON, ESQ.  
 3 Nevada Bar No. 5996  
 4 DAVID L. THOMAS, ESQ.  
 5 Nevada Bar No. 3172  
 6 Las Vegas, Nevada 89101  
 7 702-380-3100  
 8 *Attorneys for Plaintiff*

## DISTRICT COURT

## CLARK COUNTY, NEVADA

9 NICOLE DI IORIO, an individual,  
 10 Plaintiff,

11 vs.

12 SMITH'S FOOD & DRUG CENTERS, INC.,  
 13 a Foreign Corporation, dba SMITH'S FOOD  
 14 & DRUG CENTER #372;  
 15 M706 KROGER WEST, an unknown entity;  
 16 DOE INDIVIDUAL GROCERY STORE  
 17 OWNER, I through X, inclusive; ROE  
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 24 MAINTENANCE CONTRACTORS, I  
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 26 MAINTENANCE CONTRACTORS, I  
 27 through X, inclusive; DOES INDIVIDUALS I  
 28 through X, inclusive; and ROE ENTITIES I  
 through X, inclusive

Defendants.

CASE NO. A-22-846388-C  
 DEPT. NO. 27

SUMMONS - SMITH'S FOOD & DRUG  
 CENTERS, INC., a Foreign Corporation,  
 dba SMITH'S FOOD & DRUG CENTER  
 #372

**SUMMONS - SMITH'S FOOD & DRUG CENTERS, INC., a Foreign Corporation, dba  
SMITH'S FOOD & DRUG CENTER #372**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST  
YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS.  
READ THE INFORMATION BELOW.**

**SMITH'S FOOD & DRUG CENTERS, INC., a Foreign Corporation,  
dba SMITH'S FOOD & DRUG CENTER #372**

**TO THE DEFENDANT:** A Civil Complaint has been filed by the Plaintiff against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you exclusive of the day of service, you must do the following:

a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court.

b. Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the Plaintiff and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

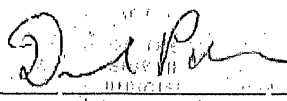
3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

Issued at the direction of:

**G. DALLAS HORTON & ASSOCIATES**

**CLERK OF THE COURT**

By: /s/ David L. Thomas, Esq.  
DALLAS HORTON, ESQ.  
Nevada Bar No. 5996  
DAVID L. THOMAS, ESQ.  
Nevada Bar No. 3172  
4435 South Eastern Avenue  
Las Vegas, Nevada 89119  
*Attorneys for Plaintiff*

By:  3/24/2022  
Deputy Clerk  
Clark County Courthouse  
200 Lewis Avenue  
Las Vegas, Nevada 89101

**Demond Palmer**



Attorney or Party without Attorney: G. DALLAS HORTON, ESQ (SBN 5996) G. Dallas Horton & Associates 4435 South Eastern Avenue Las Vegas, NV 89119 Telephone No: (702) 380-3100 Attorney For: Plaintiff				For Court Use Only	
Ref. No. or File No.: DI IORIO - 1406					
Insert name of Court, and Judicial District and Branch Court: District Court Clark County Nevada					
Plaintiff: NICOLE DI IORIO, Defendant: SMITH'S FOOD & DRUG CENTERS, INC., et al.					
DECLARATION OF SERVICE		Hearing Date:	Time:	Dept/Div: 27	Case Number: A-22-846388-C

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the SUMMONS - SMITH'S FOOD & DRUG CENTERS, INC., a Foreign Corporation, dba SMITH'S FOOD & DRUG CENTER #372; PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL
3.
  - a. Party served: SMITH'S FOOD & DRUG CENTERS, INC., a Foreign Corporation, dba SMITH'S FOOD & DRUG CENTER #372;
  - b. Person served: Kris Osborne - Authorized Agent, a person of suitable age and discretion at the most recent street address of the registered agent shown on the information filed with the Secretary of State.
4. Address where the party was served: REGISTERED AGENT - CORPORATION SERVICE COMPANY  
112 N Curry St, Carson City, NV 89703
5. I served the party:
  - a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: Mon, Apr 04 2022 (2) at: 11:55 AM

## Fee for Service:

Pursuant to NRS 53.045

I Declare under penalty of perjury under the laws of the State of NEVADA that the foregoing is true and correct.

## 6. Person Who Served Papers:

- a. Toni Ruckman (R-2020-00063, Washoe)
- b. FIRST LEGAL  
NEVADA PI/PS LICENSE 1452  
2920 N. GREEN VALLEY PARKWAY, SUITE 514  
HENDERSON, NV 89014
- c. (702) 671-4002

04/04/2022

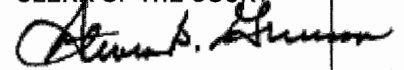
(Date)

Toni L Ruckman

(Signature)

DECLARATION OF  
SERVICE6895613  
(55190485)



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Steven D. Grierson  
CLERK OF THE COURT

1 G. DALLAS HORTON & ASSOCIATES  
 2 G. DALLAS HORTON, ESQ.  
 3 Nevada Bar No. 5996  
 4 DAVID L. THOMAS, ESQ.  
 5 Nevada Bar No. 3172  
 6 Las Vegas, Nevada 89101  
 7 702-380-3100  
 8 *Attorneys for Plaintiff*

## DISTRICT COURT

## CLARK COUNTY, NEVADA

9 NICOLE DI IORIO, an individual,  
 10 Plaintiff,

11 vs.

12 SMITH'S FOOD & DRUG CENTERS, INC.,  
 13 a Foreign Corporation, dba SMITH'S FOOD  
 14 & DRUG CENTER #372;  
 15 M706 KROGER WEST, an unknown entity;  
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 through X, inclusive

Defendants.

CASE NO. A-22-846388-C  
 DEPT. NO. 27

SUMMONS - M706 KROGER WEST

...  
 ...  
 ...  
 ...  
 ...  
 ...

**SUMMONS - M706 KROGER WEST**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.**

**M706 KROGER WEST**

**TO THE DEFENDANT:** A Civil Complaint has been filed by the Plaintiff against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you exclusive of the day of service, you must do the following:

a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court.

b. Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the Plaintiff and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

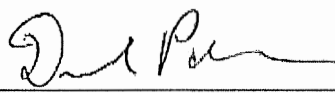
3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

Issued at the direction of:

**G. DALLAS HORTON & ASSOCIATES**

**CLERK OF THE COURT**

By: /s/ David L. Thomas, Esq.  
DALLAS HORTON, ESQ.  
Nevada Bar No. 5996  
DAVID L. THOMAS, ESQ.  
Nevada Bar No. 3172  
4435 South Eastern Avenue  
Las Vegas, Nevada 89119  
*Attorneys for Plaintiff*

By:  3/24/2022  
Deputy Clerk  
Clark County Courthouse  
200 Lewis Avenue  
Las Vegas, Nevada 89101

**Demond Palmer**

Attorney or Party without Attorney: G. DALLAS HORTON, ESQ (SBN 5996) G. Dallas Horton & Associates 4435 South Eastern Avenue Las Vegas, NV 89119 Telephone No: (702) 380-3100 Attorney For: Plaintiff				For Court Use Only
Ref. No. or File No.: DI IORIO - 1406				
Insert name of Court, and Judicial District and Branch Court: District Court Clark County Nevada				
Plaintiff: NICOLE DI IORIO, Defendant: SMITH'S FOOD & DRUG CENTERS, INC., et al.				
DECLARATION OF SERVICE	Hearing Date:	Time:	Dept/Div: 27	Case Number: A-22-846388-C

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the SUMMONS - M706 KROGER WEST; PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL
3.
  - a. Party served: M706 KROGER WEST, an unknown entity
  - b. Person served: Bill Henson - Store Director, a person of suitable age and discretion, authorized to accept at the address listed below.  
Desc: Caucasian , Male , Age: 40s , Hair: Blond , Height: 5'10"
4. Address where the party was served: 1421 N Jones Blvd, Las Vegas, NV 89108
5. I served the party:
  - a. by personal service. I personally delivered the documents listed in Item 2 to the party or person authorized to receive process for the party (1) on: Mon, Apr 04 2022 (2) at: 01:45 PM

*Fee for Service:*

Pursuant to NRS 53.045

I Declare under penalty of perjury under the laws of the State of NEVADA that the foregoing is true and correct.

6. Person Who Served Papers:

- a. Luis Sanchez-Jacquez (R-2022-03727)
- b. FIRST LEGAL  
NEVADA PI/PS LICENSE 1452  
2920 N. GREEN VALLEY PARKWAY, SUITE 514  
HENDERSON, NV 89014
- c. (702) 671-4002

04/04/2022

(Date)



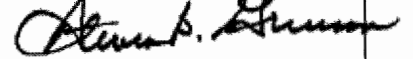
(Signature)



DECLARATION OF  
SERVICE

6895651  
(55190487)

Electronically Filed  
4/25/2022 12:15 PM  
Steven D. Grierson  
CLERK OF THE COURT



1 **ANSC**  
2 JERRY S. BUSBY  
3 Nevada Bar #001107  
4 COOPER LEVENSON, P.A.  
5 3016 West Charleston Boulevard - #195  
6 Las Vegas, Nevada 89102  
7 (702) 366-1125  
8 FAX: (702) 366-1857  
9 jbusby@cooperlevenson.com  
10 Attorneys for Defendant  
11 SMITH'S FOOD & DRUG CENTERS, INC.

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 NICOLE DI IORIO, an individual,  
10  
11 Plaintiff,

11 vs.

12 SMITH'S FOOD & DRUG CENTERS, INC.  
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14 & DRUG CENTER #372; M706 KROGER  
15 WEST, an unknown entity; DOE  
16 INDIVIDUAL GROCERY STORE OWNER,  
17 I through X, inclusive; ROE ENTITY  
18 GROCERY STORE OWNER, I through X,  
19 inclusive; DOE INDIVIDUAL GROCERY  
20 STORE LANDOWNERS, I through X,  
21 inclusive; ROE ENTITY GROCERY STORE  
22 LANDOWNERS, I through X, inclusive; DOE  
23 INDIVIDUAL MAINTENANCE  
24 CONTRACTORS, I through X; inclusive;  
25 ROE ENTITY MAINTENANCE  
26 CONTRACTORS, I through X, inclusive;  
27 DOES INDIVIDUALS I through X, inclusive;  
28 and ROE ENTITIES I through X, inclusive

21 Defendants.

CASE NO.: A-22-846388-C  
DEPT. NO.: XXVII

**DEFENDANT SMITH'S FOOD & DRUG  
CENTERS, INC.'S ANSWER TO  
PLAINTIFF'S COMPLAINT**

22 COMES NOW, Defendant, SMITH'S FOOD & DRUG CENTERS, INC., improperly designated  
23 as SMITH'S FOOD & DRUG CENTERS, INC. dba SMITH'S & DRUG CENTER #372, by and  
24 through its attorney of record, JERRY S. BUSBY, ESQ., of the law firm COOPER LEVENSON, P.A.,  
25 and hereby answers Plaintiff's Complaint on file herein as follows:

26 **I.**

27 This answering Defendant states that it does not have sufficient knowledge or information upon  
28 which to base a belief as to the truth of the allegations contained in Paragraphs 1, 5, 6, 7 and 15 of

1 Plaintiff's Complaint and upon said ground, denies each and every allegation contained therein.

2 **II.**

3 In response to Paragraph 2 of Plaintiff's Complaint, this answering Defendant admits that it  
4 is a foreign corporation registered with the Nevada Secretary of State and doing business in Nevada.  
5 This answering Defendant denies any other allegations contained in said Paragraph.

6 **III.**

7 In response to Paragraph 3 of Plaintiff's Complaint, this answering Defendant admits that it  
8 was the owner of the real property located at 1421 North Jones Boulevard, Las Vegas, Clark County,  
9 Nevada 89108. This answering Defendant denies any remaining allegations contained in said  
10 Paragraph.

11 **IV.**

12 This answering Defendant denies each and every allegation contained in Paragraphs 4, 8, 9,  
13 10, 11, 12, 13 and 14 of Plaintiff's Complaint.

14 **AFFIRMATIVE DEFENSES**

15 **FIRST AFFIRMATIVE DEFENSE**

16 Plaintiff did not use reasonable diligence to care for her injuries, thereby aggravating said injuries  
17 as a result. Therefore, Plaintiff's claims against this answering Defendant should be denied, or any  
18 recovery reduced in proportion to said negligence of Plaintiff.

19 **SECOND AFFIRMATIVE DEFENSE**

20 At the time and place alleged in Plaintiff's Complaint, and for a period of time prior thereto,  
21 Plaintiff did not exercise ordinary care, caution, or prudence for the protection of her own safety, and  
22 injuries and damages complained of by Plaintiff in the Complaint, if any, were directly and proximately  
23 caused or contributed to by the fault, failure to act, carelessness, and negligence of Plaintiff, and  
24 therefore Plaintiff's claims against this answering Defendant should be denied, or any recovery reduced  
25 in proportion to said negligence of Plaintiff.

26 ///

27 ///

28 ///

1 WHEREFORE, this answering Defendant prays that Plaintiff take nothing by virtue of her  
2 Complaint on file herein; for costs and disbursements incurred in this action; and for such other and  
3 further relief as to the Court may deem proper.

4 Dated this 25th day of April, 2022.

5 COOPER LEVENSON, P.A.

6  
7 By /s/ Jerry S. Busby  
8 Jerry S. Busby  
9 Nevada Bar No. 001107  
10 3016 West Charleston Boulevard - #195  
11 Las Vegas, Nevada 89102  
12 Attorneys for Defendant  
13 SMITH'S FOOD & DRUG CENTERS, INC.  
14  
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**CERTIFICATE OF SERVICE**

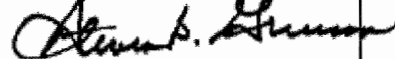
Pursuant to NRCP 5(b), I certify that I am an employee of COOPER LEVENSON, P.A. and that on this 25th day of April, 2022, I did cause a true copy of the foregoing **DEFENDANT SMITH'S FOOD & DRUG CENTERS, INC.'S ANSWER TO PLAINTIFF'S COMPLAINT** to be served upon each of the parties listed below via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve System:

David L. Thomas, Esq.  
G. DALLAS HORTON & ASSOCIATES  
4435 South Eastern Avenue  
Las Vegas, NV 89119  
Attorneys for Plaintiff

By /s/ Theresa H. Rutkowski  
An Employee of  
COOPER LEVENSON, P.A.



Electronically Filed  
5/16/2022 3:54 PM  
Steven D. Grierson  
CLERK OF THE COURT



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5 Nevada Bar No. 3172  
6 Las Vegas, Nevada 89101  
7 702-380-3100  
8 *Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

9 NICOLE DI IORIO, an individual, ) CASE NO. A-22-846388-C  
10 ) DEPT. NO. 27  
11 Plaintiff, )

12 vs. )

**PETITION FOR EXEMPTION FROM  
ARBITRATION**

13 SMITH'S FOOD & DRUG CENTERS, INC., )  
14 a Foreign Corporation, dba SMITH'S FOOD )  
15 & DRUG CENTER #372; )  
16 M706 KROGER WEST, an unknown entity; )  
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26 through X; inclusive; ROE ENTITY )  
27 MAINTENANCE CONTRACTORS, I )  
28 through X, inclusive; DOES INDIVIDUALS I )  
through X, inclusive; and ROE ENTITIES I )  
through X, inclusive )

Defendants. )

25 COMES NOW, Plaintiff NICOLE DI IORIO by and through her attorneys, G. DALLAS  
26 HORTON & ASSOCIATES, and hereby requests the above-entitled matter be exempted from  
27 arbitration pursuant to Nevada Arbitration Rules 3 and 5, as this case:

28 1. \_\_\_\_\_ presents a significant issue of public policy;

2.   X   involves an amount in issue in excess of \$50,000.00, exclusive of interest and costs;

3.            presents unusual circumstances, which constitutes good cause for removal from the program.

## I.

### **FACTS SUPPORTING EXEMPTION:**

A. **NATURE OF CASE:** This is an action for personal injuries resulting from a slip and fall incident that occurred on or about January 8, 2020 wherein Plaintiff was injured.

B. **DAMAGES:**

1. **Medical Treatment Summary:**

	Provider	Treatment dates	Bills to Date
1.	Mehran Soudbakhsh, D.C.	01/09/20 – 06/16/21	\$ 12,920.00
2.	Las Vegas Radiology	01/09/20 – 03/10/21	\$ 5,350.00
3.	Family Doctors of Green Valley	01/10/20 – 02/10/20	\$ 800.00
4.	All City Pharmacy	01/13/20	\$ 270.00
5.	Carol Sears, LMT	02/10/20	\$ 120.00
6.	Advanced Orthopedics & Sports Medicine	03/11/20 – 04/17/20	\$ 2,806.97
7.	The Center for Wellness and Pain Care of Las Vegas	06/22/20 – 10/07/21	\$ 35,423.34
8.	Durango Surgery Center	09/02/20 – 09/29/21	\$ 43,172.00
9.	Bone & Joint Specialists	03/04/21 – 04/01/21	\$ 2,237.50
			\$103,099.81

Plaintiff suffered injuries to her left knee and back as a result of the slip and fall. She underwent treatment from January 9, 2020 to April 1, 2021 and incurred bills as referenced above.

Plaintiff was also recommended surgery as a result of her injuries and has decided to wait at this time. But, is still having pain from her injuries.

## II.

### **CONCLUSION**

Based on the foregoing, the Plaintiff respectfully requests that this case be exempted from arbitration.

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1 I hereby certify pursuant to N.R.C.P. 11 this case to be within the exemption marked  
2 above, and I am aware of the sanctions that may be imposed against any attorney or party who,  
3 without good cause or justification, attempts to remove a case from the arbitration program.

4 DATED this is 16th day of May, 2022.

5 G. DALLAS HORTON & ASSOCIATES

6   
7 \_\_\_\_\_  
8 G. DALLAS HORTON, ESQ.  
9 Nevada Bar No. 5996  
10 DAVID L. THOMAS, ESQ.  
11 Nevada Bar No. 3172  
12 Las Vegas, Nevada 89101  
13 *Attorneys for Plaintiff*  
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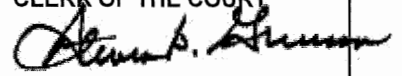
**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that on the 16th day of May, 2022, I did cause a true and accurate copy of the **PETITION FOR EXEMPTION FROM ARBITRATION** to be served via the Court's electronic filing and service system [Wiznet] to all parties on the current service list.

Jerry S. Busby, Esq.  
COOPER LEVENSON, P.A.  
3016 West Charleston Boulevard- #195  
Las Vegas, Nevada 89102  
*Attorneys for Defendant*

  
An employee of G. DALLAS HORTON & ASSOCIATES

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5/31/2022 1:37 PM  
Steven D. Grierson  
CLERK OF THE COURT



CDRG

DISTRICT COURT

CLARK COUNTY, NEVADA

Nicole Di Iorio, Plaintiff(s)

vs.

CASE NO: A-22-846388-C

DEPT. NO: XXVII

Smith's Food & Drug Centers Inc,

Defendant(s)

**COMMISSIONER'S DECISION ON REQUEST FOR EXEMPTION**

REQUEST FOR EXEMPTION FILED ON: May 16, 2022

EXEMPTION FILED BY: Plaintiff

OPPOSITION: No

**DECISION**

Having reviewed the Request for Exemption, and all related pleadings, the Request for Exemption is hereby GRANTED.

DATED this 31st of May, 2022.



ADR COMMISSIONER

**NOTICE**

Pursuant to Nevada Arbitration Rule 5(D), you are hereby notified you have five (5) days from the date you are served with this document within which to file written objections with the Clerk of Court and serve all parties. The Commissioner's Decision is deemed served three (3) days after the Commissioner's designee deposits a copy of the Decision in the U.S. Mail. Pursuant to NEFCR Rule 9(f)(2) an additional 3 days is not added to the time if served electronically (via e-service).

**A copy of the foregoing Commissioner's Decision on Request for Exemption was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing Program on the date of e-filing.**

*If indicated below*, a copy of the foregoing Commissioner's Decision on Request for Exemption was also:

☐ Mailed by United States Postal Service, Postage prepaid, to the proper parties listed below at their last known address(es) on \_\_\_\_\_, 2022.

/s/ Loretta Walker  
ADR COMMISSIONER'S DESIGNEE